



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

FEB 17 2011

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Nick Van Wingerden
Mid American Growers, Inc.
14240 Greenhouse Avenue
Granville, Illinois 61326

Re: Notice and Finding of Violation

Dear Mr. Van Wingerden:

The United States Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV) to Mid American Growers, Inc. (you) under Section 113(a)(1) and (a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (a)(3). We find that you are violating the Illinois State Implementation Plan and the New Source Performance Standards at your Granville, Illinois, facility.

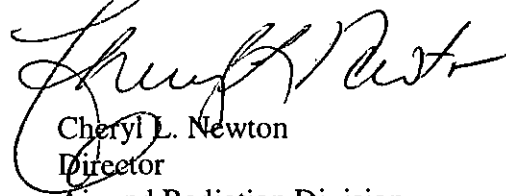
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the NOV.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Shannon Downey. You may call her at (312) 353-2151 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,



Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Ray Pilapil, IEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Mid-American Growers, Inc.

Proceedings Pursuant to
Section 113(a)(1) and (a)(3) of the
Clean Air Act, 42 U.S.C.
§ 7413(a)(1) and (a)(3)

**NOTICE AND FINDING OF
VIOLATION**

EPA-05-11-IL-07

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice and Finding of Violation under Section 113(a)(1) and (a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1) and (a)(3). EPA finds that Mid-American Growers, Inc. (MAG) is violating the Illinois State Implementation Plan (SIP) and the New Source Performance Standards (NSPS) of the CAA, 42 U.S.C. § 7411(e), as follows:

A. STATUTORY AND REGULATORY BACKGROUND

The Illinois State Implementation Plan

1. Section 110 of the CAA, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS). Pursuant to Section 113(a) and (b) of the CAA, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113. *See* 40 C.F.R. § 52.23.
2. On May 31, 1972, EPA approved Illinois Pollution Control Board (IPCB) Rules 101 and 103 as part of the federally enforceable Illinois SIP. 37 Fed. Reg. 10862 (May 31, 1972). IPCB Rules 101, 103(a)(1), 103(b)(1), and 103(i) are now set forth at 35 Illinois Administrative Code (IAC) §§ 201.102, 201.142, 201.143, and 201.146, respectively.
3. On December 17, 1992, EPA approved Illinois Compiled Statutes (ILCS) Rule 415 as part of the federally enforceable Illinois SIP. 57 Fed. Reg. 59928 (December 17, 1992).

4. 35 IAC § 201.142 provides that no person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source or air pollution control equipment, without first obtaining a construction permit from the [Illinois Environmental Protection] Agency [(IEPA)], except as provided in paragraph (i) of this Rule 103 [Section 201.146].
5. An “emission source” is defined in 35 IAC § 201.102 as any equipment or facility of a type capable of emitting specified air contaminants to the atmosphere.
6. An “air contaminant” is defined in 35 IAC § 201.102 as any solid, liquid or gaseous matter, any odor or any form of energy, that is capable of being released into the atmosphere.
7. A “new emission source” is defined in 35 IAC § 201.102 to mean any emission source for which construction or modification began after April 14, 1972.
8. 35 IAC § 201.146 sets forth certain exemptions from the permitting requirements. Wood-chip-fired boilers are not exempt sources.
9. 35 IAC § 201.143 provides that no person shall cause or allow the operation of any new emission source or new air pollution control equipment of a type for which a construction permit is required by paragraph (a) of this Rule 103 [Section 201.142] without first obtaining an operating permit from [IEPA], except for such testing operations as may be authorized by the construction permit. Applications for operating permits shall be made at such times and contain such information (in addition to the information required by paragraph (b)(3) of this Rule 103 [Section 201.157]) as shall be specified in the construction permit.
10. 415 ILCS 5/9.1(d) provides that, “no person shall...construct, install, modify or operate any equipment, building, facility, source or installation which is subject to regulation under sections 111, 112, 165 or 173 of the Clean Air Act except in compliance with the requirements of such Sections and federal requirements adopted thereto, and no such action shall be undertaken without a permit granted by the [Illinois Environmental Protection] Agency or in violation of any conditions imposed by such permit.”

New Source Performance Standard

11. On December 23, 1971, under Section 111(b) of the Act, 42 U.S.C. § 7411(b), EPA promulgated the NSPS General Provisions at 40 C.F.R Part 60, Subpart A. 36 Fed. Reg. 24877 (December 23, 1971). 40 C.F.R Part 60, Subpart A, applies to the owner or operator of any stationary source which contains an affected facility, the construction or modification of which is commenced after the date of publication in this part of any standard.

12. On September 12, 1990, EPA promulgated the "Standards for Performance for Small Industrial-Commercial-Institutional Steam Generating Units," codified at 40 C.F.R. Part 60, Subpart Dc. 55 Fed. Reg. 37683 (September 12, 1990). Subpart Dc applies to each steam generating unit for which construction, modification or reconstruction is commenced after June 9, 1989, and that has a maximum design heat input capacity of 29 megawatts (MW) (100 million British thermal units per hour (MMBtu/hr) or less, but greater than or equal to 2.9 MW (10 MMBtu/hr).
13. 40 C.F.R § 60.8(a) requires within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility, or at such other times specified by this part, and at such other times as may be required by the Administrator under section 114 of the Act, the owner or operator of such facility shall conduct performance test(s) and furnish the Administrator a written report of the results of such performance test(s).

B. FACTUAL BACKGROUND

14. MAG is incorporated in the state of Delaware, and authorized to do business in the state of Illinois.
15. MAG is a "person," as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e) and within the meaning of Section 113(d) of the Act, 42 U.S.C. § 7413(d).
16. MAG is an "affected facility," as the term is defined in 40 C.F.R § 60.2 as reference to a stationary source, any apparatus to which a standard is applicable.
17. MAG owns and operates a large floral and nursery stock grower and wholesaler in Granville, Illinois (the facility). MAG employs three 29.5 MMBtu/hr wood-chip-fired boilers at its greenhouse facility that circulate heated water through pipes in the various greenhouse sections to maintain proper growing temperatures for the plants.
18. MAG emits particulate matter, which is an air contaminant, at its three wood-chip-fired boilers.
19. MAG began operation of two of the three boilers in or around July 2007.
20. MAG applied for construction permit number 09050001 for the two initial wood-chip-fired boilers on August 24, 2007. IEPA issued the permit on February 21, 2008, and allowed the boilers to operate for a period of 90 days from the date of issuance, after which an operating permit was required.
21. MAG applied for construction permit number 07080062 for the third wood-chip-fired boiler on May 1, 2009. The permit was issued on October 26, 2009, and allowed the boiler

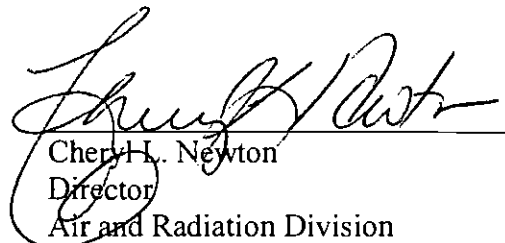
to operate for a period of 90 days from the date of issuance, after which an operating permit was required.

22. MAG continued operation of its wood-chip-fired boilers past the 90 days allowed by the construction permit.
23. MAG did not submit any performance test protocols or results 180 days after startup to IEPA or EPA for its wood chip-fired-boilers.

C. VIOLATIONS

24. MAG is in violation of 35 IAC § 201.142 for failing to obtain a construction permit from IEPA prior to constructing a new emission source.
25. MAG is in violation of 35 IAC § 201.143 for operating an emission source without first obtaining an operating permit from IEPA.
26. MAG is in violation of 40 C.F.R. § 60.8(a), for failing to conduct and submit a stack test for the wood-chip-fired boilers.
27. MAG's violation of 40 C.F.R. § 60.8(a) is a violation of Section 111 of the CAA, 42 U.S.C. § 7411. Therefore, MAG violated 35 IAC § 9.1(d), for operating an emission source in violation of Section 111 of the CAA.

2/17/11
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Notice and Finding of Violation, No. EPA-05-11-

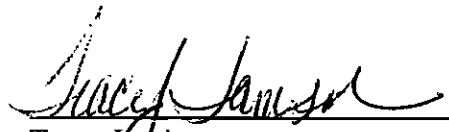
IL-07, by Certified Mail, Return Receipt Requested, to:

Nick Van Wingerden
Mid American Growers
14240 Greenhouse Avenue
Granville, Illinois 61326

I also certify that I sent copies of the Notice of Violation by first class mail to:

Ray Pilapil, Section Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794-9506

on the 18 day of Feb., 2011.



Tracy Jamison
Office Automation Assistant
Planning and Administrative Section

CERTIFIED MAIL RECEIPT NUMBER: 7029 1680 000 7660 8480